



LENA C. TAYLOR

Wisconsin State Senator • 4th District

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Senate Committee on Judiciary, Corrections, and Housing

Testimony of Senator Lena c. Taylor

SB 412 – Installment Payments of Judgments in Traffic and Municipal Courts

Thursday, February 14, 2008

Committee Members, I am excited to provide testimony on Senate Bill 412. This bill, which is the result of numerous constituent contacts, judicial meetings, and the subject of untold community forums, speaks to the heart of what our committee has been charged to do.

As we all know, court overcrowding, delayed access to justice, and limited parameters about the penalties available to judges in sentencing, often work against the very individuals that we are trying to help.

In particular, the overwhelming number of Wisconsin residents caught in the vicious cycle of judgments, issued for traffic or municipal offenses have spiraled so far out of control that many may never get out from under their debt.

Poverty, for many residents, is often a direct vehicle down the road to the loss of driving privileges or incarceration. Often poor defendants are given specified dates to pay a fine, with no consideration for their financial circumstance.

SB 412 seeks to bring some much needed relief to this issue. By requiring that courts ASK a defendant whether or not they are impoverished or notifying them at the time of rendering a judgment, that issues of poverty can be taken into consideration, this allows defendants to work with the courts to set up installment payments that reduce the likelihood of seeing that defendant in the court again for that offense.

The idea that the court would take into consideration a defendant's ability to pay a fine before reaching a point of suspension of operating privileges or even imprisonment just makes sense!

Many agencies, companies or businesses provide their customers the same consideration every day. They have figured out that it is more productive to work out reasonable payment structures that will minimize defaults, additional interest or fees. Our courts should certainly be no different in this regard.

The outcomes of continuing to do business as usual on this issue are too costly. In terms of disrupted families, incarceration costs, and overburden courts, we must do things differently.



Tamara GRIGSBY

Wisconsin State Representative
18th Assembly District

Testimony Before the Senate Committee on Judiciary, Corrections, and Housing February 14, 2008 Senate Bill 412

I want to thank Chairwoman Taylor for scheduling Senate Bill 410 for a public hearing. I would also like to take this opportunity to thank Senator Taylor for authoring this important bill. As the Assembly author of this bill I greatly appreciate the willingness of the Committee to listen to the testimony you will be hearing today.

In Wisconsin in 2007 the number one reason for license revocation or suspension was due to failure to pay forfeitures for traffic violations as well as municipal ordinance violations. Over 152,000 Wisconsin residents had their licenses suspended because they could not pay their fines in one lump sum. If an individual is found guilty of violating a traffic regulation or a municipal ordinance the court may charge the person any applicable costs, fees and surcharges in addition to the forfeiture for the violation. Under current law an individual's license is suspended until they have paid their traffic forfeitures in full; additionally a municipal court may suspend an individual's license for failure to pay parking tickets and other municipal ordinance violations.

For some, these fines can be thousands of dollars and to pay all of that money at one time is an extreme financial burden for them and their families. SB 412 will allow indigent defendants **one** opportunity to have an installment payment plan ordered in lieu of the suspension of a driver's license. If the defendant subsequently fails to comply with the installment payment plan, then their license will be suspended and they will not have the opportunity to seek this alternative again. This will ensure that people are still able to drive to their jobs and continue to earn an income that will allow them to pay their fines. Without a driver's license it is often difficult to find or maintain employment, especially employment that provides a family-supporting wage.

A study by the University of Wisconsin Milwaukee Employment and Training Institute found that many Milwaukee teens are unlikely to be employed full time as adults due to non-driving license suspensions. Of 4,708 teens given suspensions for non-payment of juvenile fines, two years later, at ages 18 and 19, less than 10% of them had a driver's license. If these teens were able to set up a payment plan they would be able to pay off their fines and more of them would be licensed drivers.

It simply does not make sense to take away a person's license because they are poor and unable to pay their fine in full up front. In suspending their license and depriving them of the opportunity to get to work we are creating another barrier for them to be able to comply with the court order and complete the payment of their fine. We know from experience that many of these individuals will continue to drive, risking further fines and penalties, so they can continue to get to their jobs and maintain their livelihood. It is in all of our best interests to have legitimate licensed drivers

on our roadways. Let's give these individuals the help they need to continue to drive legally so they are able to meet all of their financial obligations.

Under this bill, the court will be required to set up reasonable payment plans, based on income, for individuals who are unable to pay their fines due to poverty. If the individual fails to comply with the payment plan, then the court has the authority to suspend that person's license.

I thank the committee for your time and consideration of this matter. I am happy to answer any questions Committee members may have.



STATE REPRESENTATIVE

FREDERICK P. KESSLER

WISCONSIN STATE ASSEMBLY

12TH DISTRICT

February 14, 2008

Senate Committee on Judiciary, Corrections, and Housing

Senate Bill 412

Representative Fred Kessler

Chairwoman Taylor, and members of the Senate Committee on Judiciary, Corrections, and Housing, thank you for holding a public hearing on Senate Bill 412.

Senate Bill 412 is a proposal that I believe lends some common sense to the way that indigent individuals are processed following a traffic violation. As we all know, if a person violates a traffic ordinance, they traditionally have to pay a nominal fine. If the individual fails to pay the penalty in a timely manner, their driving privileges are suspended.

The current law assumes that an individual who does not pay a fine can afford it, but chooses not to pay. There is no mechanism for those who presumably would pay their fine, but are unable to do so due to their financial situation. Currently, their driving privileges are suspended, regardless of a person's ability to pay.

Senate Bill 412 requires the court to notify an individual of a judgment of this nature against them if they are not present. Further, it asks the court to make a determination as to if the reason the individual could not pay was due to poverty. If that is the case, instead of immediately suspending the individual's license, the court is instructed to establish an installment payment plan that allows the individual to pay their penalty as they can afford it.

My sense is that poor individuals do not deserve further punitive treatment due simply to their low economic standing. It is impossible to get money from a person who does not have any. It is a self-defeating circle. For an individual of severely limited means, even paying the smallest of traffic fines, could be a choice between paying for the traffic ticket and paying for food or heat.

Finally, all too often when we take away a person's privilege to drive, we also take away their ability to work. Those in poverty are already struggling to support their families and get by as it is. To take away their primary means of transportation only renders them more vulnerable and less able to meet their financial needs.

Thank you and please join with me in supporting Senate Bill 412.



**Testimony before the
Senate Committee on Judiciary, Corrections, and Housing
on AB-309
2-14-08
Submitted by
Steve Blake
Representing
Wisconsin Fathers for Children and Families**

My name is Steve Blake and I am the president of Wisconsin Fathers for Children and Families. WFCF supports this bill and urges the committee to recommend it's passage.

Custody studies in divorce cases or placement disputes have such a profound impact on the fundamental liberty interests of parents to the care, custody and control of their children that I find it surprising that they have not been subject to the rules of evidence already. Those who prepare custody studies need to explain how and why they have made the recommendations that they have and certainly should have to answer questions that a parent or their counsel may have concerning the method used and the circumstances that led to the conclusions reached.

It is definitely in the best interest of children that each parent have the opportunity to participate as fully as possible in their care and upbringing and if a custody evaluator recommends differently they should have to give a full accounting as to why their recommendations find that it is not.

Wisconsin Fathers for Children and Families believes that the best parent is both parents. Anything that interferes with that concept should be subject to the closest possible scrutiny. Therefore my organization urges this committee to recommend passage of AB-309.

Respectfully submitted,

Steve Blake
President
Wisconsin Fathers for Children and Families
608-584-6508

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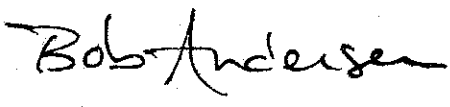
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TO: Senate Committee on Judiciary, Corrections and Housing

FROM: Bob Andersen 
Dave Pifer

RE: Senate Bill 412, relating to payment of judgements in traffic courts and municipal courts by installments and the suspension of operating privileges

DATE: February 14, 2008

Legal Action of Wisconsin, Inc. (LAW) is a nonprofit organization funded by the federal Legal Services Corporation, Inc., to provide legal services for low income people in 39 counties in Wisconsin. LAW provides representation for low income people across a territory that extends from the very populous southeastern corner of the state up through Brown County in the east and La Crosse County in the west. One of the projects of Legal Action of Wisconsin is the Legal Intervention for Employment (LIFE) project, through which we represent low income people in the restoration of their driver's licenses.

This bill is the same as a bill introduced during the **1999 session** (1999 AB 846) that passed the **Assembly Judiciary Committee by a vote of 9-0**, was approved by the **Assembly on a voice vote**, passed the **Senate Committee on Judiciary and Consumer Affairs** by a vote of **5-0**, but failed to pass in the Senate at the end of the session. At the time, there was much controversy over a budget bill enactment that repealed the authority of municipal court judges to suspend driver's licenses for non-traffic violations and it was feared that this bill would be amended in the Senate to undo that repeal. Consequently, the bill was never taken up in the Senate. **The same bill was reintroduced in 2001** (2001 SB 253) and this time passed the **Senate on a voice vote** and was given a hearing before the Assembly Judiciary Committee. But this time the Municipal Court judges enthusiasm for the bill waned and the bill died without ever being taken up in the Assembly.

The bill was initially drafted with the support of the Municipal Court Judges Association legislative liaison, Michael Hurt, and Sheryl Gervasi, Director of State Court's Office, on behalf of the state's circuit court judges.

I. Purpose

The bill allows low income people the opportunity to avoid the automatic suspension of their licenses by making payments of forfeitures in installments. The bill has an important effect on the success of W-2. W-2 providers report that one of the greatest barriers to successful



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employment for W-2 participants is their inability to drive to job sites because of suspended driver's licenses. Many W-2 participants have suspended driver's licenses because they failed to pay parking tickets, failed to pay forfeitures for moving traffic ordinance violations, or failed to pay forfeitures for other municipal ordinance violations. In many cases, participants have had their licenses suspended because default judgements were entered against them for failure to appear on the return dates.

The bill allows indigent defendants one opportunity to have an installment payment plan ordered in lieu of the suspension of a driver's license. That one opportunity can be offered before the judgment is initially entered or it can be offered after a judgement is entered. Allowing installment payment plans already is the practice for many municipal courts. The bill will make this a uniform practice and will allow jurisdictions, who currently do not believe they have the authority, to enter these installment payment plans.

II. Provisions of the Bill

A. Before Judgements are Initially Entered, Municipal Courts and Circuit Courts are Required to Offer Indigent Defendants Installment Payment Plans Before Suspending their Driver's Licenses, When Defendants Appear in Court.

When defendants appear in court to answer to the charges and are found guilty of ordinance violations, courts are required to first offer them an opportunity to pay the forfeitures by installments, before suspending their driver's licenses, if the defendants are unable to pay because of their poverty. If the defendants subsequently fail to comply with the installment payment plans, their licenses will be suspended.

This is the practice that is actually being followed by many municipal courts and circuit courts. The bill ensures that this practice will be codified in the statutes and that it will be followed by all courts, in municipal ordinance violation cases.

B. After Judgments Have Already Been Entered, Defendants Who are Unable to Pay Because of Poverty may Obtain Installment Payment Plans in Lieu of the Suspension of their Licenses, Provided that They Have Not Previously Been Given an Installment Payment Plan and Failed to Comply with the Plan.

This bill provides that a court shall terminate the suspension of a driver's license that was previously ordered because of an ordinance violation, and substitute an installment payment plan therefor, if all of the following circumstances are met:

- (1) the defendant requests the installment payment plan.
- (2) the defendant is unable to pay because of poverty.

- (3) the defendant has not previously failed an installment payment plan that has been ordered by the court.

If an installment payment plan is ordered under these circumstances and the defendant subsequently fails to comply with the plan, the suspension of the license will be reinstated.

This proposal is considered to be a better approach than requiring the reopening of judgments in these cases. Instead of requiring judgments to be reopened -- which creates administrative problems for the courts and which unsettles those judgments -- this proposal avoids those problems by simply requiring that orders for license suspension be terminated.

C. The Determination that a Person is "Unable to Pay Because of Poverty" Uses the Same Criteria that Already Exists in the Statutes under s. 814.29, Regarding the Waiver of Costs and Fees for Persons who are Unable to Pay Because of Poverty.

In order to establish a uniform definition of poverty for all courts, this bill incorporates the determination of when a person is unable to pay because of poverty that already exists in the statutes, under s. 814.29 (1)(d). Under that section, essentially, a person is determined to be unable to pay costs and fees because of poverty if any of the following is true:

- (1) that the defendant is a recipient of means tested public assistance, including Wisconsin Works, general relief under Chapter 49, relief provided by the counties under s. 59.53 (21), medical assistance, supplemental security income, food stamps, or benefits received by veterans under 45.351 (1) or under 38 USC 501 to 562.
- (2) that the person is represented by an attorney through a legal services program for indigent persons, including, without limitation, those funded by the federal legal services corporation, the state public defender or volunteer attorney programs based on indigency.
- (3) that the person is otherwise unable, because of poverty, to pay the fees and costs. In considering the defendant's inability, the court shall consider the person's household size, income, expenses, assets and debts and the federal poverty guidelines under 42 USC 9902.

Under this bill, if a defendant meets these criteria, the defendant would be entitled to an installment payment plan in lieu of the suspension of a license, provided the defendant had not already been offered such an option and failed to comply with the plan.

D. The Installment Payment Plan Required under this Bill Would be Required to be a "Reasonable Installment Payment Plan that takes into Account the Defendant's Income."

The purposes of this bill will not be achieved if a genuinely poor person, taking a look at assets and income, cannot make payments because of current income.